IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

WP(C).No. 17473 of 2007(E)

PETITIONER:
----

1. **MUVATTUPUZHA MEGHALA MANAL THOZHILALI UNION (REG.NO.07-45/2001 (INTUC), MUVATTUPUZHA, REP. BY ITS GENERAL SECRETARY, K.A.ABDUL SALAM.**

2. **P.RAJENDRAN, PUTHENPURAYIL HOUSE, ENAANELLUR P.O. KADUMPIDI, MUVATTUPUZHA.**

BY ADV. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI
SRI.BRIJESH MOHAN

RESPONDENTS:
----

1. **THE DISTRICT COLLECTOR, ERNAKULAM.**

2. **MUVATTUPUZHA MUNICIPALITY, MUVATTUPUZHA REP. BY ITS SECRETARY.**

3. **MANAL THOZHILALI UNION (CITU), MUVATTUPUZHA, REP. BY ITS SECRETARY.**

4. **KETTIDA NIRMANA THOZHILALI UNION (CITU), MUVATTUPUZHA, REP. BY ITS PRESIDENT SRI.K.A.BABY.**

5. **THE TAHSILDAR, MUVATTUPUZHA.**

BY ADV. SRI.V.M.KURIAN - R2
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS
SRI.P.FAZIL - R3, R4
SMT.JAYASREE MANOJ
SRI.SREEJITH V.S.
SRI.A.C.THOMAS ADHIKARAM
BY GOVERNMENT PLEADER SMT.ANU SIVARAMAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO. 17473/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE CIRCULAR NO.M2/11568/2002 DT.3.10.02.

EXT.P2:- COPY OF THE PROCEEDINGS DT.25.9.03 OF THE 2ND RESPONDENT.

EXT.P3:- COPY OF THE NOTIFICATION DT.13.1.05 ISSUED BY THE 2ND RESPONDENT.

EXT.P4:- COPY OF THE LIST OF SAND WORKERS SUBMITTED BY THE 1ST PETITIONER ON 18.1.05.

EXT.P5:- COPY OF THE OFFER IN RESPONSE TO EXT.P3 SUBMITTED BY THE PETITIONER ON 19.1.05 TO THE 2ND RESPONDENT.

EXT.P6:- COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT DT. 31.1.05.

EXT.P7:- COPY OF THE REGISTRATION CERTIFICATE ISSUED TO THE 1ST PETITIONER UNDER THE INDIAN TRADE UNIONS ACT.

EXT.P8:- COPY OF THE JUDGMENT DT.19.10.05 IN WP(C) NO.4123/05 OF THE HONOURABLE COURT.

EXT.P9:- COPY OF THE PROCEEDINGS NO.M2-621-1/04 DT.15.5.07 ISSUED BY THE 1ST RESPONDENT.

EXT.P10:- COPY OF THE AGENDA FOR MEETING HELD ON 8.6.07 ISSUED BY THE 2ND RESPONDENT.

/TRUE COPY/

tss

S. SIRI JAGAN, J.

W.P.(C)NO.17473 OF 2007

DATED THIS THE 12th DAY OF JUNE, 2007

JUDGMENT

This writ petition relates to inter se dispute between two unions regarding the allocation of work of collection and removal of sand pursuant to establishment of a 'kadavu' as per Ext.P9. According to the petitioner, the 2nd respondent has favoured a particular Union namely, the 3rd respondent and employed only members of that Union exclusively to the detriment of the members of the 1st petitioner Union. The petitioner points out that as per Ext.P1 circular issued by the District Collector, the verification of the workers, who are entitled to work in the 'kadavu', has to be done by the Tahsildar and identity cards issued in accordance with Clause 3 of Ext.P1. The allegation is that the Secretary of the 2nd respondent has decided by Ext.P2 as to who are all to be employed for work in the 'kadavu' contrary to Ext.P1. The petitioners contend that Ext.P2 contains names only of the 3rd respondent Union to the total exclusion of all workers. According to the petitioners, members of the 1st petitioner Union are also entitled to work in the area which would be clear if the Tahsildar conducts the verification as provided in Clause 3 of Ext.P1.

2. According to the learned counsel for the Municipality, issue of identity cards are to be done by the Secretary of the Municipality and not by the Tahsildar, he submits. The Tahsildar can only verify the identity cards. He relies on Clause 1 of Ext.P1 for the same. He would submit that Ext.P2 has been drawn up after verification of all the identity cards and only those workers mentioned in Ext.P2 were found to be entitled to work in the 'Kadavu'. The learned counsel for the 3rd respondent supports the contentions of the Municipality. According to him, the workers mentioned in Ext.P2 alone are entitled to work in the 'kadavu'. He also points out that Ext.P4, which is the list relied on by the petitioners, contains some of the names in Ext.P2 also, which would go to show that Ext.P2 has been correctly drawn up.

3. I have considered the rival contentions in detail. On a reading of Ext.P1, I cannot agree with the contentions of the learned counsel for the Municipality that it is the Secretary of the Municipality, who has to issue the identity cards. Of course, in Clause 1 of Ext.P1, it is stated that the local authority is vested with the powers of collecting sand and selling the same within the area of the local body. But Clause 3 specifically states that it is the Tahsildar, who has to verify the earlier identity cards issued to workers and to decide the entitlement of the workers to work in the 'kadavu'. In the above circumstances, I am of opinion that Ext.P2 cannot be acted upon for the purpose of deciding which are all the

workers entitled to work in the area.

4. Accordingly, there would be a direction to the 5th respondent to consider the matter in accordance with Clause 3 of Ext.P1 and decide as to who are all members entitled to identity cards for working in the area. Such a decision shall be taken within one month from the date of receipt of a copy of this judgment.

5. However, till a final decision is taken, an interim arrangement has to be made in order to see that the work in the 'kadavu' is not affected. Accordingly, I direct that the work shall be shared equally between the members possessing identity cards of the 1st petitioner Union and the 3rd respondent Union. The 2nd respondent Municipality shall inform the 1st petitioner Union and the 3rd respondent Union as to the total number of workers required for work in the 'kadavu' and each Union shall nominate half each of the number and depute them for work in the 'kadavu' till final orders are passed by the 5th respondent as directed above. The fact that some workers nominated by the Union are allowed to work pursuant to the interim arrangement would not confer any right on them for work in future and the entitlement for work would be as per the decision of the 5th respondent after due verification of entitlement. Of course, the decision shall be taken on the basis of Ext.P1.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

Acd